

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE: RETROACTIVE APPLICATION OF
 U.S. SENTENCING GUIDELINE
 AMENDMENT 821, PARTS A & B,
 SUBPART 1

GENERAL ORDER

The U.S. Sentencing Commission has promulgated a series of revisions to the U.S. Sentencing Guidelines through Amendment 821, which was effective November 1, 2023. The Commission has determined that Part A and Subpart 1 of Part B of Amendment 821 should be made retroactive, permitting defendants to receive sentence reductions pursuant to 18 U.S.C. § 3582(c)(2). *See* U.S.S.G. amend. 825. Part A of the amendment addresses criminal history “status” points assigned under U.S.S.G. §4A1.1, decreasing them by one point for individuals with seven or more criminal history points and eliminating them for those with six or fewer criminal history points. Subpart 1 of Part B creates a new Guideline, U.S.S.G. § 4C1.1, which provides a decrease of two offense levels for “Zero-Point Offenders” (no criminal history points) whose offense did not involve specific factors. In the interest of applying the retroactive amendment fairly, expeditiously, and without undue expenditure of judicial resources, the Court hereby orders as follows:

IT IS ORDERED that the Retroactivity Screening Committee for Amendment 821 (the 821 Committee) is hereby created. The 821 Committee shall consist of at least one representative from each of the Federal Public Defender’s Office for the Eastern District of Louisiana (“FPD”), the U.S. Attorney’s Office for the Eastern District of Louisiana

("USAO"), and the U.S. Probation Office for the Eastern District of Louisiana ("USPO"). The 821 Committee is directed to review all cases of defendants identified as potentially eligible for a sentence reduction under 18 U.S.C. § 3582(c) based on retroactive application of Parts A and Part B, Subpart 1, of Amendment 821. That review shall encompass all potentially eligible cases identified by the United States Sentencing Commission and the United States Probation Office, as well as any cases independently identified by the FPD or USAO. The 821 Committee shall also review the cases of all defendants who file motions seeking sentence reductions under § 3582(c)(2) based on Part A and Part B, Subpart 1, of Amendment 821.

IT IS FURTHER ORDERED that the FPD is hereby appointed to represent any defendant who is potentially eligible for a reduction of sentence under 18 U.S.C. § 3582(c) based on the reduction authorized by Part A and Subpart 1 of Part B of Amendment 821. An FPD attorney shall be permitted to file a motion to enroll and file supporting memoranda in any case in which the FPD determines the defendant is eligible for a reduction. In the event the FPD determines there is a conflict of interest necessitating the appointment of conflict counsel, an attorney shall be appointed through the Criminal Justice Act, 18 U.S.C. § 3006A(a)(1) and (c).

IT IS FURTHER ORDERED that the U.S. Probation Office and U.S. District Court Clerk's Office for the Eastern District of Louisiana are authorized to disclose and shall, upon request from any 821 Committee member, provide to the FPD and USAO any documents necessary to determine a defendant's eligibility for a sentence reduction and the

extent of any such reduction. Those documents shall specifically include: presentence investigation reports and addenda, judgments, statements of reasons, plea agreements, factual bases, verdict forms, orders on post-conviction motions (including prior sentence reduction motions), and the defendant's education data, transcripts, disciplinary records, and sentence computation data from the federal Bureau of Prisons. The 821 Committee members may review these materials for the sole purpose of determining eligibility for a sentence reduction under § 3582(c)(2) based on the retroactive application of Part A and Subpart 1 of Part B of Amendment 821, and the 821 Committee may not disclose these materials except to subsequently appointed counsel for the defendant, unless otherwise ordered by the Court.


In all cases where the defendant has filed a motion for a sentence reduction or at least one member of the 821 Committee determines the defendant is eligible for a reduction, the 821 Committee shall complete and submit an Amendment 821 Screening Form to the U.S. District Court Judge assigned to the case. If a defendant has *not* filed a § 3582(c)(2) motion, and the 821 Committee members unanimously agree that the defendant is not eligible for a § 3582(c)(2) reduction, the committee shall not submit a screening form unless specifically requested to do so by the District Judge. The screening forms shall indicate whether there is any agreement between the FPD and USAO regarding the defendant's eligibility for a sentence reduction and the action to be requested from the sentencing court. In the event of disagreement, the form will state the date on which the

FPD will file a motion/memorandum seeking a reduction on behalf of the defendant, as well as the date on which the USAO will file any response.

To facilitate the timely review and resolution of eligible cases, the Court has obtained from the U.S. Sentencing Commission a list of individuals sentenced in the Eastern District of Louisiana who the Commission has identified as potentially eligible for sentence reductions. A copy of that list will be provided to the FPD, USAO, and USPO. Additionally, the USPO is directed to generate and provide to the 821 Committee a list of people sentenced in the Eastern District of Louisiana who either (1) received status points under U.S.S.G. § 4A1.1(d), or (2) received zero criminal history points, using the Probation and Pretrial Services Automated Case Tracking System (PACTS).

IT IS SO ORDERED.

NEW ORLEANS, LOUISIANA, signed this 15th day of November, 2023



NANNETTE JOLIVETTE BROWN
CHIEF U.S. DISTRICT JUDGE
EASTERN DISTRICT OF LOUISIANA